

JS 44  
(Rev. 3/99)**CIVIL COVER SHEET**

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**

SABRE, INC.

**DEFENDANTS**

AIR CANADA, INC.

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF TARRANT  
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)  
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)  
GIBSON DUNN & CRUTCHER LLP  
2100 McKinney, Suite 1100  
Dallas, Texas 75201

ATTORNEYS (IF KNOWN)

**3-02CV2016-L****II. BASIS OF JURISDICTION** (PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☐ 3 Federal Question (U.S. Government Not a Party)  
☒ Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- |   |                                       |   |                            |
|---|---------------------------------------|---|----------------------------|
| PTF                                     | DEF                                   | PTF   | DEF                        |
| <input type="checkbox"/> 1              | <input type="checkbox"/> 1            | <input checked="" type="checkbox"/> 4                         | <input type="checkbox"/> 4 |
| Citizen of This State                   |                                       | Incorporated or Principal Place of Business in This State     |                            |
| <input type="checkbox"/> 2              | <input type="checkbox"/> 2            | <input type="checkbox"/> 5                                    | <input type="checkbox"/> 5 |
| Citizen of Another State                |                                       | Incorporated and Principal Place of Business in Another State |                            |
| <input type="checkbox"/> 3              | <input checked="" type="checkbox"/> 3 | <input type="checkbox"/> 6                                    | <input type="checkbox"/> 6 |
| Citizen or Subject of a Foreign Country |                                       | Foreign Nation  |                            |

**IV. NATURE OF SUIT** (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input checked="" type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury — Med. Malpractice <input type="checkbox"/> 365 Personal Injury — Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability  <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 510 Selective Service <input type="checkbox"/> 550 Securities/Commodities/Exchange <input type="checkbox"/> 575 Customer Challenge 12 USC 3410 <input type="checkbox"/> 591 Agricultural Acts <input type="checkbox"/> 592 Economic Stabilization Act <input type="checkbox"/> 593 Environmental Matters <input type="checkbox"/> 594 Energy Allocation Act <input type="checkbox"/> 595 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 990 Other Statutory Actions
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>HABEAS CORPUS:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 750 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))  <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS — Third Party 26 USC 7809	

**V. ORIGIN**

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from another district (specify) \_\_\_\_\_  
☐ 6 Multidistrict Litigation  
☐ 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

28 U.S.C. Section 1332. Breach of Contract by Defendant

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION  
☐ UNDER F.R.C.P. 23

DEMAND \$ 75,000

CHECK YES only if demanded in complaint:  
 JURY DEMAND: ☒ YES ☐ NO

**VIII. RELATED CASE(S) IF ANY**

JUDGE

DOCKET NUMBER

DATE

September 17, 2002

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

SEP 17 2002

SABRE INC.,

Plaintiff,

v.

AIR CANADA INC.,

Defendant.

**3 - 0 2 C V 2 0 1 6 - L**

CIVIL ACTION NO. \_\_\_\_\_

**PLAINTIFF'S ORIGINAL COMPLAINT**

Plaintiff Sabre Inc. ("Sabre") hereby files this Complaint against Air Canada, Inc. and in support thereof states as follows:

**THE PARTIES**

1. Plaintiff Sabre is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at 3150 Sabre Drive, Southlake, Tarrant County, Texas 76092.

2. Defendant Air Canada, Inc. ("Air Canada") is a corporation organized and existing under the laws of Canada with its principal place of business and home office at Air Canada Centre, 7373 Cote-Vertu Blvd. West, Saint Laurent (Montreal) H4Y 1H4, Quebec, Canada. Air Canada is not registered to do business in the State of Texas, although it does business in the State of Texas, including, but not limited to, operating air carrier services from Dallas/Fort Worth International Airport. Pursuant to the contract at issue in this dispute, Air Canada has agreed and consented to jurisdiction in the State of Texas in any dispute arising out of the contract.

### **JURISDICTION AND VENUE**

3. Plaintiff is a citizen of the State of Texas and Defendant is a citizen of Canada. The amount in controversy exceeds \$75,000, exclusive of interest and costs. Accordingly, this Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332.

4. This Complaint may be served upon Air Canada by and through service upon the Texas Secretary of State, as authorized by Fed. R. Civ. P. 4(h) and TEX. CIV. PRAC. & REM. CODE § 17.044(b). The Texas Secretary of State can serve Air Canada via International Registered Mail at Air Canada's home office, Air Canada Centre, 7373 Cote-Vertu Blvd. West, Saint Laurent (Montreal), Quebec H4Y 1H4.

5. Venue is proper in this District pursuant to 28 U.S.C. § 1391.

### **FACTUAL BACKGROUND**

6. Sabre, among other things, owns and operates a state-of-the-art global distribution system ("GDS") used for air transportation, hotel, car rental and other travel-related services. Sabre markets the Sabre GDS to tens of thousands of subscribers worldwide. These entities – typically, travel agencies – use the Sabre GDS to, among other things, review travel availability for, make reservations on, and issue tickets for travel on participating foreign and domestic air carriers, which contract to participate in the Sabre GDS and to pay Sabre a fee for each booking made through the Sabre GDS.

7. Prior to July 2, 1996, the SABRE Travel Information Network ("STIN"), then a division of American Airlines, Inc. ("American"), together with other affiliated companies, owned and operated the Sabre GDS.

8. On July 2, 1996, STIN and other affiliated entities were consolidated into Sabre. Additionally, on July 2, 1996, American assigned and transferred its interests, rights, and obligations in contracts with participating carriers, such as Air Canada, to Sabre.

9. On or about July 31, 1990, Sabre and Air Canada entered into a Participating Carrier Distribution and Services Agreement, as amended from time to time thereafter ("the Participating Carrier Agreement"). Pursuant to various provisions in the Participating Carrier Agreement, Air Canada is required to provide schedule, fare and other data to travel agents and others who subscribe to Sabre so that reservations on Air Canada can be made through the Sabre GDS. Air Canada, in turn, is required to pay Sabre a fee for each reservation or "Booking" made through Sabre on its behalf.

10. Air Canada has failed to allow Sabre subscribers to book reservations for some of its flights, in breach of the Participating Carrier Agreement.

11. At all relevant times, Sabre has faithfully and fully performed its obligations under the Participating Carrier Agreement. All conditions precedent to the filing of the claims in this lawsuit and Sabre's entitlement to and recovery of damages from Air Canada has been performed by Sabre.

**COUNT ONE**  
**(Breach Of Contract, Debt)**

12. Plaintiff realleges and incorporates by reference paragraphs 1 through 10.

13. At all relevant times, the Participating Carrier Agreement was a validly executed and enforceable agreement between Sabre and Air Canada.

14. Air Canada has not performed its obligations under and has materially breached the Participating Carrier Agreement.

15. As a consequence of Air Canada's breach of the Participating Carrier Agreement, Sabre has suffered substantial direct and consequential damages and is entitled to recover its damages, together with all applicable interest, in an amount to be determined at trial.

16. As a consequence of Air Canada's breach of the Participating Carrier Agreement, Sabre has retained the law firm of Gibson, Dunn & Crutcher LLP to represent it in this action and

has agreed to pay said firm's reasonable attorney's fees. Sabre is entitled to recover its reasonable attorney's from Air Canada pursuant to, *inter alia*, Texas Civil Practice and Remedies Code § 38.001 *et seq.*

### **JURY DEMAND**

Plaintiff demands a trial by jury.


### **PRAYER**

WHEREFORE, Sabre asks that Air Canada be cited to appear and answer, and that Sabre have judgment against Air Canada for:

- (1) Damages within the jurisdictional limits of this Court;
- (2) Reasonable attorneys' fees;
- (3) Pre-judgment interest as provided by law;
- (4) Post-judgment interest as provided by law;
- (5) Costs of suit; and
- (6) All other and further relief, at law or in equity, to which Plaintiff may be justly entitled.

DATE: September 17, 2002

Respectfully submitted,

By: 

John R. Crews  
State Bar No. 00785529  
Jon G. Shepherd  
State Bar No. 00788402  
GIBSON, DUNN & CRUTCHER LLP  
2100 McKinney Avenue, Suite 1100  
Dallas, Texas 75201  
Telephone: (214) 698-3100  
Facsimile: (214) 698-3400

ATTORNEYS FOR PLAINTIFF SABRE INC.

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

SABRE INC.,

Plaintiff,

v.

CIVIL ACTION NO. \_\_\_\_\_

AIR CANADA INC.,

Defendant.

**CERTIFICATE OF INTERESTED PERSONS**

Plaintiff Sabre Inc. ("Sabre"), pursuant to Local Rule 81.1(a)(D) and Local Rule 3.1(f) hereby files this Certificate of Interested Persons.

The following persons or entities may have a financial interest in the outcome of this case:

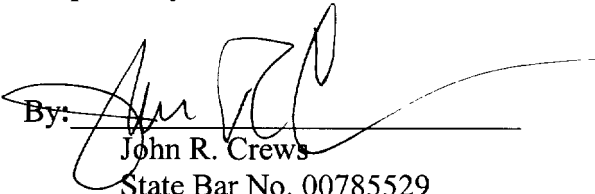
Sabre Inc.

Sabre Holdings Corp., a publicly traded company and parent of Sabre Inc.

Air Canada, Inc.

September 17, 2002.

Respectfully submitted,

By:   
John R. Crews

State Bar No. 00785529

Jon G. Shepherd

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